

CALIFORNIA

Winter 1999



Board of Registration for Geologists and Geophysicists



GEOLOGISTS AND GEOPHYSICISTS

Sharon Jasek Reid
Board President



Any year end turns one's thoughts to endings and beginnings and to accomplishments and goals. This is especially true in a year that ends in a millenium. (OK, purists would argue that the millenium ends a year from now, but the calendar change from 1999 to Y2K seems ever so more dramatic than 2000 to 2001!)



This edition of **California Geologists and Geophysicists** is packed with

articles about what the Board has done this year and what it plans to do next year. So, my mission in this piece is simply to urge you to read everything in this edition (and any edition for that matter) and join with the Board in its appreciation of its support staff and licensees for making so much happen.

If you haven't already, I urge you to visit the Board's website. On it, you are able to access information about the Board's public meetings, its goals for this year and the next few in its Strategic Plan and the status of its programs including the first administration of the ASBOG examination in spring, 2000.

You will also learn about numerous opportunities to assist the Board as a volunteer in examination question writing workshops, task analyses, criterion-reference pass point workshops or on one of the Board's four advisory committees: *Enforcement, Examination, Legislative and Technical.*

It is an honor to serve as the Board's President this year. With your input and involvement, I hope to make the Board's record even stronger during Y2K.



EXECUTIVE OFFICER'S MESSAGE

Paul Sweeney
Executive Officer



Undoubtedly, by the time this newsletter is received, the media blitz regarding a change in a single calendar year will have bored even the most jaded fan of Y2K. Since I work and play with people and issues that deal in epochs of time, it is difficult to seriously address what the future holds for the Board of Registration for Geologists and Geophysicists when a simple calendar day is passed. Cognizant of the fact that the public and the regulated community sometimes perceive the processes of government to be

glacial in nature, I am consistently trying to improve the Board's response time to the consumer of geological and geophysical services on various issues: license verification, examination scoring and reporting, efficient enforcement activity, responses to general inquiries, and other concerns brought to our attention by the public and the Department of Consumer Affairs.

These time-related issues remind me of the strong willingness by the Board and Board staff to comply with the time requirements mandated in the Geologist and Geophysicist Act and the goals identified in the Board's Strategic Plan. The Board has a very strong commitment to serve the consumer by fulfilling its Mission to continuously enhance the quality, value and availability of geological and geophysical services offered to the people of California. During the coming year and beyond (dare I say into the next century?) the Board will continue to improve its services to the people of California.

Finally, a really big THANK YOU to the dozens of licensees who have participated in the Board's many volunteer activities. Whether you participated as a Subject Matter Expert during an Occupational Analysis or Criterion-Referenced Pass Point workshop, or spent hours either grading examination questions or reviewing an enforcement case as a Technical Expert, the Board is sincerely grateful for your efforts in improving the operation of the Board of Registration for Geologists and Geophysicists.

Season's Greetings to All, and may you have a Prosperous New Year!

NEW STAFF

The Board welcomes **Peggy Farrell** to its staff!

Peggy came to the Board from the Department of Corrections where she was an Office Assistant for the Release Program Study, assigning inmates to parole regions. As Office Assistant for the Board, Peggy assists with the daily administrative duties of the Board.

STAFF

Paul Sweeney, Executive Officer

Mary Scruggs, Enforcement Manager

Mary Lynn Ferreira, Associate Governmental Program Analyst

Adam Mankoski, Enforcement Analyst

Pamela Hopper, Examination Coordinator

Peggy Farrell, Office Assistant

Diane Cortopassi, Office Assistant

Cover Photo: Quaternary glacial moraines and Miocene volcanic rocks, Highway 108, Toiyabe National Forest, CA

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OUTREACH



Pictured are (from left) Paul Sweeney, Executive Officer, Ken Ehman, Ph.D., and Mary Scruggs, Enforcement Manager at the Geological Society of America's Cordilleran Section conference in Berkeley. The Board distributed information to over 500 geologists at its booth at the conference.

In addition, in a continued effort to develop and operate a public awareness program that informs the general public, federal, state and local regulatory agencies and the academic community of the Board's functions, policies, procedures and activities, the Board conducted outreach activities to university students at 5 California State Universities.

The Board is available for outreach activities to colleges and universities, consumers and public agencies. To schedule a presentation, please call the Board.

THE BOARD ON THE WEB

www.dca.ca.gov/geology

- About the Board
- Hot Topics
- Legal Notices
- Announcements
- Meetings
- Publications
- Enforcement Program
- Registration and Certification
- Links to Other Sites

A user-friendly directory of licensees, agendas and minutes for all public meetings, notices of proposed rulemaking, recent enforcement actions, and all complaint forms and examination applications are available on the website!

YOUR ADDRESS ON THE WEB

The Directory of Licensees on the Board's website is updated every three months. The next update will be January 31, 2000. If you want to change your address of record, please send, fax or e-mail an address change request to the Board by the 15th of the month that an update will take place.

NEW STUDENT GUIDE



The new *Student Guide to Geophysical Licensure in California* is available. The Guide will be distributed at high schools, colleges and universities, giving students information about the Board, the examination and qualifications to be licensed as a Registered Geophysicist in California.

The following publications are also available upon request from the Board:

[Consumer Guide to Geological and Geophysical Services](#)

[Student Guide to Geological Licensure in California](#)

[Geologic Guidelines for Earthquake and/or Fault Hazard Reports](#)

[Guidelines for Geophysical Reports for Environmental and Engineering Geology Projects](#)

[Guidelines for Engineering Geologic Reports](#)

[Guidelines for Groundwater Investigation Reports](#)



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ENFORCEMENT

Enforcement Actions

Warren Lester Sherling

Registered Geologist No. 3777
Certified Engineering Geologist
No. 1182

The Board of Registration for Geologists and Geophysicists adopted the proposed decision of the Administrative Law Judge in the matter of the citation appeal of Warren Lester Sherling. The citation was issued to Warren Lester Sherling for negligence related to a fault investigation, a violation of section 7860(b) of the Geologist and Geophysicist Act. The trench was excavated approximately parallel to a known trace of the San Andreas Fault, a known seismic hazard. The report submitted to the public agency for approval stated the site "... is safe for human occupancy ... safe from geologic hazards and is suitable for the intended purpose..." The result of the appeal hearing affirmed the citation and \$500 fine issued to Mr. Sherling. Mr. Sherling was ordered to cease and desist in illegal activity and pay the fine. Mr. Sherling paid the fine and the Board closed the case on September 16, 1999.

Mark Payne

The Board of Registration for Geologists and Geophysicists issued a citation order to Mark Payne for violation of sections 7832 and 7872(a) of the Geologist and Geophysicist Act. The citation was issued for submitting a proposal for performing geologic work for others. Mr. Payne agrees with the findings in the citation, is in compliance with the Geologist and Geophysicist Act and the case was closed on October 15, 1999.

Code of Professional Standards

The attached Code of Professional Standards became effective on October 27, 1999. Every person who holds a license issued by the Board shall comply with these professional standards. Any licensee who violates any of the professional standards in the practice of geology or geophysics is subject to disciplinary action.

A copy of the Code of Professional Standards is also available upon request from the Board or on its website.

Message from the Enforcement Manager

In October 1998 there were approximately ten active cases. A year later, there are 47 active cases and the enforcement caseload continues to increase. One of the most striking things about the cases submitted this year is the varied nature of the subject matter.

The Board receives complaints from consumers, licensed geologists, other licensed professionals and regulators. The cases cover many areas of practice including fault investigations, landslide evaluation, ground water contamination, engineering geology reports for single family homes as well as residential and commercial developments, geophysical surveys, slope stability in timber harvest plans, real estate disclosures, mining and site investigations. Complaints are filed against both licensed and unlicensed individuals.

The ultimate goal for enforcement is compliance with the Geologist and Geophysicist Act and timely resolution of cases. The amount of time it takes to resolve and close a case varies considerably and is dependent on the individual case. Each case is reviewed and additional information is requested if necessary. Cases outside the jurisdiction of the Board are forwarded to the appropriate agency and/or returned to the complainant with an explanation. Most cases are forwarded to a technical expert for

(Continued on Page 5)

(Enforcement Manager, Cont.)





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review to determine if the respondent has violated the Geologist and Geophysicist Act (Act). If the technical expert makes the determination that the work and/or conduct are not in violation of the Act, the case is closed and the parties involved are notified. If the technical expert determines the work is in violation of the Act, Board staff evaluates the case and the Executive Officer determines the course of action.

Options include issuing a warning letter, cease and desist order, citation and fine, or forwarding the case to the Office of Attorney General for disciplinary action. Disciplinary actions can include probation, public reproof, restitution to damaged parties, reimbursement of Board's investigative costs, license suspension, license surrender and/or license revocation.

Active cases are confidential and information is not released to the public concerning active investigations and disciplinary proceedings. Results of closed actionable cases are summarized in the biannual newsletter and are posted on the Board's website.

For more information about disciplinary action in enforcement cases, please see the Board's revised Disciplinary Guidelines, effective October 1999, on the Board's Website.

DISCIPLINARY GUIDELINES

To facilitate uniformity of penalties and to ensure that its disciplinary policies are known, the Board established disciplinary guidelines in July 1992. The guidelines were republished in January, 1996 and revised in June 1998. While recognizing the concept that administrative law judges must be free to exercise their discretion in such cases, the Board desires that these guidelines be followed to the extent possible and that any departures therefrom be noted and explained in the proposed decision. The disciplinary guidelines address minimum and maximum sentences for the following violations of the Geologist and Geophysicist Act.

- Conviction of a Crime
- Deceit or Misrepresentation
- Violation of Contract (Initial)
- Violation of Contract (Multiple)
- Fraud (Initial)
- Fraud (Multiple)
- Negligence (Initial)
- Negligence (Multiple)
- Incompetency

(Continued on Page 6)

THE ENFORCEMENT PROCESS

The Board investigates complaints against licensees and individuals practicing geology or geophysics without a license. Investigations can involve many aspects of geology including but not limited to evaluation of landslides and slope stability, fault investigations, real estate disclosures, groundwater contamination and groundwater resource evaluations.

The Board's authority allows action against an individual's license within the provisions of the Geologist and Geophysicist Act. Cases requiring discipline against an individual's license can result in administrative actions including issuing citations and fines up to \$2,500 per incident and license probation, suspension or revocation.

You may remain anonymous, but if you do not wish to disclose your identity, the Board's staff will assist you in preparing your complaint. However, the Board may be unable to pursue the complaint unless it can independently document evidence of the allegations made.

You **MUST NOT** contact the Board members about enforcement cases. If a Board member has knowledge of a complaint, he or she must recuse themselves from voting if a case is before the Board after disciplinary proceedings.

(Continued on Page 6)

(The Enforcement Process, Cont.)

To file a complaint, complete the Board's complaint form and include copies of all documents pertaining to the complaint. This includes contracts, reports, maps, data, cross-sections and correspondence. The complaint form is available on the Board's website or is available upon request. If you have questions about filing a complaint, contact the Board's enforcement staff.

(Disciplinary Guidelines, Cont.)

Fraud or Deceit in Obtaining Certification

Assisting in the Violation of the Geologist & Geophysicist Act

Violate any Provision of Act

Display Non-Current Permit

Lend License to Another

Display License not Issued to Self

Failure to Surrender License

Unlawful Use of License

Unlawfully Duplicate License

Conspire with a Person Not Licensed to Use License Unlawfully

Refusal to Perform Licensed Activity

Conduct Which Violates Security of Exam Materials

Inability to Practice Due to Mental/Physical Impairment

A copy of the disciplinary guidelines is available on the Board's Website or upon request from the Board.

LICENSURE BY COMITY

At its February 21-22, 1998 meeting, the Board voted to enter into agreements with other states for mutual recognition of licensure by comity. The Board sent letters to all states that administer the ASBOG (Association of State Boards of Geology) Examination for licensure as a Registered Geologist. The letter detailed the following criteria for licensure by comity in California:

The applicant must:

pass the ASBOG examination on or after fall 1996,

pass a one-hour supplemental California examination,

meet California's minimum experience and education requirement, and.

be in good standing with the state in which he or she is licensed.

The following states responded to the Board's request for mutual license recognition and will consider granting licensure to an applicant from California if they meet the requirements for licensure in that state:

Georgia	Kentucky
North Carolina	Oregon
Pennsylvania	Puerto Rico

For more information about licensure by comity, please contact the Board's examination unit.

Y2K

The following statement regarding the Department of Consumer Affairs' (DCA) Y2K programs, was issued by Majid Afghani, Y2K Projects Manager:

The DCA and the State of California recognize that the Y2K problem is a serious one, which may affect ongoing operations. In an effort to address this issue, the DCA has implemented an aggressive program too remediate and/or upgrade its current systems to assure their operation before, at or after the Millenium. That effort has received the active support of our Legislature, Governor Davis and the Department of Information Technology (DOIT).

The DCA also recognizes that there are serious questions regarding the impact of embedded chip failures in equipment purchased and used by the Department. As a purchaser of such equipment from a variety of sources, the DCA has implemented a comprehensive plan to obtain assurances from our suppliers that their equipment will be Y2K compliant and will not pose a significant safety risk to our citizens. Further, the DCA has implemented a comprehensive plan to assure that prospective purchases from the suppliers to the DCA will be Y2K compliant.

The DCA and the State of

(Continued on Page 7)

(Y2K, Cont.)

California are committed to minimizing the impact of the Y2K problem on its citizens. For more information regarding the Y2K effort being undertaken by the State of California, we invite you to visit the DOIT website at www.year2000.ca.gov, which provides a more detailed statement of Y2K programs.

If you have any questions or concerns, please call the Department's Hotline at (916) 327-5295.

ASBOG

California was the host state for the 10th Annual Association of State Boards of Geology (ASBOG) Annual Meeting, October 11-16, 1999 in San Francisco. ASBOG was formed as a connective link between the individual state boards. It offers advice and counsel, and coordinates and facilitates the planning of uniform procedures. The meeting provides an opportunity for all of the boards that administer the ASBOG examinations for licensure as a geologist, to discuss topics of mutual concern including examinations, licensing, enforcement, administration and reciprocity and comity.

The Board will begin administering the ASBOG examination for licensure as a Registered Geologist in spring 2000. For more information about ASBOG, visit its website at www.asbog.org.

COMMITTEE ASSIGNMENTS

Board Internal Committees

Executive Committee

Sharon Jasek Reid
David Cummings
Seena Hoose

Strategic Plan

Sharon Jasek Reid
David Cummings
Seena Hoose

Sunset Review

Dorene Dominguez
Robert Lindblom
Karen Melikian

Ex-Officio Appointments to Advisory Committees

Examination

Robert Lindblom
Karen Melikian

Enforcement Oversight

Seena Hoose

Legislative

Dorene Dominguez
Robert Lindblom

Technical Advisory

David Cummings
Sharon Jasek Reid

2000 BOARD MEETING SCHEDULE

February 4-5
Sacramento

April 7
Ontario

June 16
Sacramento

August 11-12
Eureka

October 6
Sacramento

December 1
San Diego

WHERE ARE YOU?



***Do you know where this is?
Find the answer in
Information Bulletin 00-01
coming February 2000.***



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REVIEW OF GEOLOGIC REPORTS BY STATE AND LOCAL PUBLIC AGENCIES

The review of geologic reports involving the exercise of independent discretion and judgement should be conducted under the responsible charge of a Registered Geologist either under contract with or employed by the reviewing agency. Legal counsel for the Board issued a letter dated September 14, 1999, in response to an inquiry from Mr. Edwin Lowry, Director of the State Department of Toxic Substances Control. The letter addresses the review of geologic reports by public agencies. The letter concluded:

“If a geologic document review report manifests evidence of independent control and direction in the use of initiative, skill and independent judgement regarding geologic decisions, it should be prepared under the responsible charge of a Registered Geologist.geologic work involving the exercise of discretion and judgement should be conducted under the responsible charge of a Registered Geologist.”

The Board’s enforcement staff will pursue violations of the Geologist and Geophysicist Act by government employees at State and local public agencies.

To request a copy of the September 14, 1999 letter, please contact the Board. More information about the review of geologic reports by public agencies is available on the Board’s website.



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